

# SENATE RECORD VOTE ANALYSIS

105th Congress  
1st Session

**Vote No. 41**

April 15, 1997, 9:41 am  
Page S-3136 Temp. Record

## NUCLEAR WASTE/Cap on Total Fees

**SUBJECT:** Nuclear Waste Policy Act of 1997 . . . S. 104. Murkowski amendment No. 43 to the Domenici amendment No. 42 to the Murkowski substitute amendment No. 26.

### ACTION: AMENDMENT AGREED TO, 66-32

**SYNOPSIS:** As reported, S. 104, the Nuclear Waste Policy Act of 1997, will set deadlines for the Department of Energy to meet its contractual obligations to accept and to store at a single permanent repository the nuclear waste generated by the commercial nuclear power industry; that site will also be used to store all Federal nuclear waste. Congress has selected Yucca Mountain, Nevada, as the site to be considered for the permanent repository. If the President decides that site is unsuitable, a timetable for selecting an interim central storage site will be followed; the Nevada Test Site will be selected as the interim site if another interim site is not agreed upon by the President and Congress (the Nevada Test Site is commonly referred to as being at Yucca Mountain because it is on immediately adjacent land, and both sites are federally owned). If Yucca Mountain is approved for a permanent repository, an interim repository will be built at the Nevada Test Site.

The Murkowski substitute amendment would make several compromise changes. Those changes include: lowering the permitted tonnage capacity for an interim storage facility; delaying the construction and operation dates; authorizing the Environmental Protection Agency to be involved in setting the radiation protection standard; requiring the Environmental Impact Statement for the repository to include a generic analysis of the impacts from transporting used fuel to the storage facility; allowing preemption of State and local laws only if State intransigence prevented a Federal purpose; changing the user fee modifications; and striking the provision stating that existing legal rights will be protected and inserting in lieu thereof that it is the sense of Congress that legal disputes on nuclear waste should be settled.

The Domenici amendment would provide that no points of order that require 60 votes in order to be waived will automatically be considered to be waived when considering a joint resolution to adjust the nuclear waste mandatory fee. (The bill sets forth expedited procedures for the consideration of such joint resolutions. Currently, utilities with nuclear power plants are assessed a

(See other side)

YEAS (66)			NAYS (32)			NOT VOTING (2)	
Republicans (53 or 98%)		Democrats (13 or 30%)	Republicans (1 or 2%)		Democrats (31 or 70%)	Republicans (1)	Democrats (1)
Abraham	Hutchison	Breaux	Ashcroft	Akaka	Glenn	Coats- <sup>2</sup>	Rockefeller- <sup>2</sup>
Allard	Inhofe	Dodd		Baucus	Harkin		
Bennett	Jeffords	Graham		Biden	Kennedy		
Bond	Kempthorne	Hollings		Bingaman	Kerrey		
Brownback	Kyl	Inouye		Boxer	Kerry		
Burns	Lott	Johnson		Bryan	Landrieu		
Campbell	Lugar	Kohl		Bumpers	Lautenberg		
Chafee	Mack	Leahy		Byrd	Moseley-Braun		
Cochran	McCain	Levin		Cleland	Moynihan		
Collins	McConnell	Lieberman		Conrad	Murray		
Coverdell	Murkowski	Mikulski		Daschle	Reed		
Craig	Nickles	Robb		Dorgan	Reid		
D'Amato	Roberts	Sarbanes		Durbin	Torricelli		
DeWine	Roth			Feingold	Wellstone		
Domenici	Santorum			Feinstein	Wyden		
Enzi	Sessions			Ford			
Faircloth	Shelby						
Frist	Smith, Bob						
Gorton	Smith, Gordon						
Gramm	Snowe						
Grams	Specter						
Grassley	Stevens						
Gregg	Thomas						
Hagel	Thompson						
Hatch	Thurmond						
Helms	Warner						
Hutchinson							

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

mandatory fee equal to 1 mill per kilowatt-hour. The nuclear waste program, however, is funded through discretionary appropriations, and must compete for funding with other programs funded under its annual appropriations bill. Approximately \$650 million per year is collected. A total of \$13 billion has gone into the nuclear waste trust fund to date and approximately \$6 billion has been spent (as with all trust funds, the money consists of Treasury bonds; all trust funds go into the general fund of the Treasury and are spent). This bill will establish a 2-fee system. Each year, appropriators will determine the amount to spend separate from all other discretionary spending. Utilities will then be assessed for that amount, and the mandatory fee will be set to be equal to the amount that would have been collected by a 1 mill per kilowatt-hour assessment minus the discretionary fee. The 2-fee system will be in place for fiscal years (FYs) 2000-2001 and for years after FY 2005. The current mandatory fee will be in effect in FYs 2004-2005 due to insufficient offsets.)

**The Murkowski second-degree amendment** to the Domenici amendment would clarify that the total cost of the mandatory and discretionary nuclear waste fees would not be allowed to exceed the current mandatory fee rate of 1 mill per kilowatt-hour except by enactment of a joint resolution.

NOTE: Following the vote, the Domenici amendment, as amended, was adopted by voice vote.

**Those favoring** the amendment contended:

This amendment would make clear that congressional action would be required to increase the nuclear waste disposal fee. Though the nuclear waste disposal program has been plagued by numerous problems, collecting enough money to pay for building repositories has not been among them. So far ratepayers have put \$13 billion into the fund, but only \$6 billion has been spent. The fee generates \$630 million per year, plus the Defense Department adds another \$200 million per year to pay for the waste that it will send. According to the Department of Energy's own budget plan, the cost of building both an interim repository and a permanent repository, with an interim repository to be named in 1998, will be only \$535 million to \$698 million per year, which is well under the \$830 million annually collected. Given that the nuclear waste disposal fund already has a balance of about \$7 billion, and that more will be collected in the next few years than will be required to build both an interim and a permanent repository, we do not see any reason why it should be possible to increase the fee without first getting Congress' approval. Right now, the fee is adjustable at the discretion of the Secretary of Energy. That discretion should be removed. The danger is that the Administration may try to use the nuclear waste fee as a means of increasing revenues. As matters currently stand, one of the reasons so little of the amount that has been collected for disposing of nuclear waste has been spent on that purpose is that it is possible to spend it on other purposes. The program has a mandatory funding source, but it is funded out of discretionary funds, and competition is fierce for those funds. A complicated, 2-tier funding process will be enacted by this bill to solve that problem. That solution could be partially undone by increasing the mandatory fee. The nuclear waste program would still receive greater funding, but the increase in the mandatory fee could effectively be used to increase unrelated discretionary spending. The Murkowski amendment has been offered to protect the ratepayers. We have heard a lot of red-meat rhetoric about this bill being designed to protect rich utilities, but that rhetoric is nonsense. The fact is that utilities in America are regulated monopolies. Their profits are painstakingly controlled by statutes and regulations. Utilities are stable, predictable investments, and they are such because the American people want stable, predictable supplies of power as a matter of public policy. Though our colleagues have studiously ignored the fact, increasing the nuclear waste fee will not cut into some supposedly outrageous corporate utility profits; instead, it will just trigger rate increases that will keep the carefully regulated profits at the level that politicians have already determined are appropriate. In drafting the substitute amendment, we had no intention of allowing the combined total of the 2 nuclear waste fees to exceed the current fee level, at least not without congressional approval first. The Murkowski amendment clarifies this point, and thus merits our strong support.

**Those opposing** the amendment contended:

The Murkowski amendment has been offered to benefit rich and powerful electric utilities. Roughly one-quarter of this country's electricity comes from nuclear power, and the companies that collect the bills for that electricity are among the richest and most influential on earth. They have tons of nuclear waste, and they want the Federal Government to assume all responsibility for its permanent disposal. They have already managed to get most Members to agree to that responsibility on the condition that the utilities pay for the cost of building the waste repositories. Now, with the Murkowski amendment, they are trying to get Members to say that the taxpayers should have to foot a big part of the construction bill. The existing nuclear waste program will cost \$34 billion to complete. The utilities are supposed to pay \$27 billion of that amount and the Defense Department is supposed to pay for the remainder. Right now, the General Accounting Office (GAO) says that the fee assessed on utilities is going to result in too little money being collected. Clearly, if the GAO is right, it will be necessary to increase the fee. Under the Murkowski amendment, though, it would become very difficult to raise the fee. We should not pass this amendment to help big rich utilities.